IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

MFA.No. 350 of 2002(B)

WCC.199/1999 of W.C.C.,THRISSUR
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APPELLANT: 1ST RESPONDENT IN W.C.C.NO.199/1999

THE THRISSUR MUNICIPALITY, THRISSUR,
NOW BEING CHANGED INTO THRISSUR CORPORATION
REPRESENTED BY ITS ASSISTANT SECRETARY.

BY ADV. SRI.K.B.MOHANDAS,SC,THRISSUR CORPORATIO
SRI.LELLULAL T.G.THUNDATHIL
SRI.K.A.SREEJITH

RESPONDENTS: APPLICANTS 1 TO 3 & 2ND RES.IN W.C.C. NO.199/1999
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1. LISSY, W/O. LATE A.T.LAZAR,ALOOR HOUSE,
P.O.KURUMAL, THRISSUR DISTRICT.

2. MINOR LINE, S/O. LATE A.T.LAZAR,ALOOR
HOUSE, P.O.KURUMAL THRISSUR DISTRICT REPRESENTED
BY MOTHER, THE 1ST RESPONDENT.

3. MINOR LINTO, S/O. LATE A.T.LAZAR,
ALOOR HOSUE, P.O.KURUMAL, THRISSUR DISTRICT
REPRESENTED BY MOTHER, THE 1ST RESPONDENT

4. C.K.JOSEPH, S/O.KOCHAPPU, CHITTILAPPILLY
HOUSE, P.O.KURUMAL, THRISSUR DISTRICT.

BY ADV. SRI.C.ANIL KUMAR
SRI.P.RAMAKRISHNAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 7.11.2007 , THE COURT ON 07/11/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.350 OF 20O2

Dated this the 7th day of November, 2007

JUDGMENT

Koshy, J.

This appeal is filed by the Thrissur Municipality who was asked to pay workmen compensation amount ordered by the Commissioner in WCC.199 of 1999. The above case was filed by the dependents of an employee who sustained fatal accident at 3.30 on 20.3.1999. While he was engaged in line charging work, the electric post collapsed which was in a dilapidated condition and the deceased fell down along with the post and succumbed to the injuries. The work was carried on under the control of the responsible officers of the appellant. He was only 37 years old. The appellant contended that the deceased was not employed by the appellant Municipality and further contended that the work was entrusted by a contractor, C.K.Joseph, fourth respondent. After considering the evidence, the Commissioner found that the accident occurred during the course of employment and it is arising out of employment. It is not disputed that supply of electricity in Thrissur was the duty of the Thrissur Municipality. Therefore, it is the duty of

the Thrissur Municipality to keep the line in order and it is not also disputed that the accident occurred while the deceased worker was working at an electric post in connection with repairing of the electric line, when the electric post fell down and the accident occurred. The contract with the fourth respondent was not produced. The work was carried on by the Municipality and ultimately,amount is also paid to the workers through a third party. The real employer was the Municipality. Even if it is only a principal employer under Section 12 of the Workmen Compensation Act, principal employer is liable to deposit the amount. The award of the Commissioner is based on appreciation of evidence and it is a finding of fact. We see no reason to interfere with the award impugned. We dismiss the appeal.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.350 OF 2002

JUDGMENT

7.11.2007